

1 simply saying that it can be part of the composite of
2 the record that can be pointed to.

3 And I'm not saying that it concludes -- it
4 concludes that it mitigates either. I'm simply saying
5 that it's there -- the argument, in the general
6 relevancy concept -- within the general relevancy
7 concept.

8 Now, down to paragraph 11. "The two
9 navigable lakes in the area." I'm not sure -- what
10 does this have to do with -- weather warnings?

11 MR. LYNCH: Yes, Your Honor.

12 JUDGE SIPPEL: Any objection to that?

13 MR. TILLOTSON: My objection is the lack
14 of specificity again.

15 JUDGE SIPPEL: All right. I'm going to
16 overrule that.

17 MR. SCHONMAN: Unless Mr. Lynch can tie
18 this into the renewal period, the Bureau would object.

19 MR. LYNCH: We've had the same
20 meteorologist contracted for, I believe, 13 years, AM
21 and FM both.

22 MR. SCHONMAN: -- relevant to the renewal
23 period?

24 MR. LYNCH: Absolutely.

25 MR. SCHONMAN: The Bureau has no

1 objection, then.

2 JUDGE SIPPEL: All right. Paragraph 12.

3 MR. LYNCH: I should say this went on for
4 the entire renewal period.

5 MR. SCHONMAN: No objection.

6 MR. TILLOTSON: No objection.

7 JUDGE SIPPEL: 13.

8 MR. SCHONMAN: The Bureau, again, would
9 object, unless it can be tied into the renewal period;
10 and I specifically am looking at the last line. It
11 says, "Each week, WYLR runs -- " and it's written in
12 the present tense.

13 JUDGE SIPPEL: Well, that's -- Well, let
14 me cover that very specifically.

15 "WYLR runs about 100 recorded or live
16 PSAs." Does that have to do with the PSA evidence that
17 you talked about before that's been adopted after the
18 end of the renewal period?

19 MR. LYNCH: This is an approximation of
20 what we run.

21 JUDGE SIPPEL: Well, yes, but you see --

22 MR. LYNCH: Some weeks are extremely
23 heavy. Some weeks would be light, if we're not in a
24 major --

25 JUDGE SIPPEL: But --

1 MR. LYNCH: It's a good-faith
2 approximation.

3 JUDGE SIPPEL: But for what time period --

4 MR. LYNCH: Oh, I'm sorry, for the entire
5 renewal period.

6 JUDGE SIPPEL: For the entire renewal
7 period. But, yet, you testified specifically before
8 that there was something more that was being done --

9 MR. LYNCH: Oh, we log them and we check
10 them.

11 JUDGE SIPPEL: -- after the renewal
12 period.

13 MR. LYNCH: We --

14 JUDGE SIPPEL: That's --

15 MR. LYNCH: We have changed our public
16 filing around. We have changed our logging and our
17 priorities.

18 JUDGE SIPPEL: Well, let me try one more
19 time.

20 Remember we went a few pages back we
21 struck references to PSA information data? Do you
22 recall that? And you said, "Yes, that's correct."
23 That was something that you had just recently
24 instituted.

25 MR. LYNCH: I don't want to make a mistake

1 on this.

2 JUDGE SIPPEL: You see where we are on the
3 beginning of this Exhibit on the first page on
4 paragraph No. 2 --

5 MR. LYNCH: Yes, Your Honor.

6 JUDGE SIPPEL: -- where we struck, "WYLR
7 now presents a block of public affairs programming"?

8 MR. LYNCH: Yes, Your Honor.

9 JUDGE SIPPEL: And you explained that --
10 you verified the fact that this was something that came
11 in after the renewal --

12 MR. LYNCH: Yes, Your Honor. Okay.
13 Public affairs, not public service. This is a one-hour
14 program.

15 JUDGE SIPPEL: Well, okay. All right.

16 MR. LYNCH: -- different.

17 JUDGE SIPPEL: All right, then --

18 MR. LYNCH: Thought I was going nuts.

19 JUDGE SIPPEL: -- that's -- So the
20 sentence that reads, "Each week, WYLR runs about 100
21 recorded or live PSAs, that's for the whole -- that
22 covers the renewal period.

23 MR. LYNCH: That does, Your Honor.

24 JUDGE SIPPEL: PSAs.

25 All right. Okay. Is there any more with

1 respect to that objection?

2 MR. SCHONMAN: No, sir.

3 JUDGE SIPPEL: 14.

4 MR. TILLOTSON: Object to it in its
5 entirety, Your Honor.

6 The first line " -- received citations,
7 commendations and awards" is a general term, insofar as
8 we don't -- we don't have the specific awards. We know
9 when they occurred or what the station did for the
10 awards. It's not -- It's not relevant. It's too vague
11 and amorphous to constitute evidence. And then he gets
12 specific. We have a reference to a presidential award.
13 They tell us who developed this award. But they don't
14 even claim that this award was given to the station or
15 to WYLR.

16 Oh, and by the way, it says, "Normandy
17 and/or the stations have received citations." And,
18 remember, we're talking only about WYLR. So we don't
19 even have a claim in here that any of these things were
20 awarded to WYLR for its contributions.

21 "The Crystal Award nomination is
22 especially prestigious in that it is a recognition by
23 fellow broadcasters." Mr. Lynch is not competent to
24 testify as to that. Someone from the NAB would have to
25 be here to tell us what the Crystal Awards and how

1 they're performed. And I will tell you, Your Honor,
2 that if Mr. Lynch is allowed to testify that this is
3 what the Crystal Awards are, that I would think I would
4 need to call a representative of the NAB as a rebuttal
5 witness so Your Honor would know for the record that
6 Crystal Awards are self-nominations by stations that
7 send in -- "This is what we do." And the NAB, based on
8 the self representation to the NAB, without any
9 independent investigation whatsoever, issues awards.

10 JUDGE SIPPEL: All right. Let me hear
11 from the Bureau. Mr. Schonman.

12 MR. SCHONMAN: Initially, I didn't have
13 any objections to paragraph 14. To the extent that Mr.
14 Lynch can explain these representations on cross
15 examination.

16 JUDGE SIPPEL: Well, nobody has the burden
17 of taking -- I think it does -- This could be very
18 misleading. And -- to counsel to straighten out what
19 Mr. Lynch has presented. I'm going to strike it --

20 15.

21 MR. TILLOTSON: No problem.

22 JUDGE SIPPEL: Mr. Schonman.

23 MR. SCHONMAN: I'm not sure how it's
24 relevant to renewal expectancy. Perhaps Mr. Lynch can
25 explain that.

1 JUDGE SIPPEL: This is political
2 advertising.

3 MR. LYNCH: No -- Basically, it's a First
4 Amendment claim. And I don't sit and pick favorites or
5 not. I personally take care of 95-98 percent of all
6 political advertising over the station. And as far as
7 covering all major local races through its regularly-
8 scheduled newscast, that stands by itself.

9 JUDGE SIPPEL: All right. I take it you
10 don't have a strong --

11 MR. SCHONMAN: Well, we have an objection.
12 I have nothing more to say about it.

13 JUDGE SIPPEL: All right. Okay. The
14 objection is based on relevancy?

15 MR. SCHONMAN: Yes. Renewal expectancy.

16 JUDGE SIPPEL: For renewal expectancy. I
17 hear you. I hear you.

18 MR. SCHONMAN: Which, I assume, is why
19 it's being offered.

20 JUDGE SIPPEL: Yes, this is all under
21 programming. That's what we're talking about.

22 Well, I'll exercise my discretion and
23 leave it in and let -- see what Mr. Lynch can do with
24 it -- findings. But I'll make me a personal note of a
25 question mark and the Bureau objects.

1 Objection overruled. 15 stays in.

2 Paragraph 16.

3 MR. TILLOTSON: I object to the first
4 sentence as conclusory. And I object to the balance on
5 the fact -- again, we've got broad descriptions about
6 the stations doing things in the way of programming,
7 but no specifics. There are no time periods. There
8 are no dates. There's no duration. There's no
9 indication of what guests might have appeared and what
10 the programming really was.

11 JUDGE SIPPEL: All right. Let's take this
12 one step at a time.

13 I'm inclined to agree with you on that
14 first sentence.

15 Mr. Schonman.

16 MR. SCHONMAN: The Bureau has an objection
17 to paragraph 16 in its entirety, only because there's
18 no reference to the renewal period.

19 MR. LYNCH: There are sporadic references
20 to the renewal period. Operation Santa Claus 1989.

21 But everything in this paragraph, other
22 than job discovery, which has only been going on for, I
23 believe, four years now, happened throughout the entire
24 -- did happen throughout the entire license term -- or
25 during the license term. Some of them, not the entire

1 -- Winter Carnival, the Americaid -- throughout the
2 entire license period -- Coordination, Balloon
3 Festival, throughout the entire seven-year period.

4 JUDGE SIPPEL: Well, I'm going to start by
5 -- that first sentence. And I will -- For purposes of
6 a proffer at this stage of the proceedings, I will
7 accept Mr. Lynch's representation that this is
8 substantially what was being done -- it's illustrative
9 -- word that's used in this paragraph -- of what was
10 done in terms of broadcasting over the renewal period,
11 which doesn't -- for purposes of something this general
12 and broad doesn't necessarily -- doesn't have to be cut
13 off on the end of the renewal -- just by virtue of its
14 -- the nature of this type of information, just by its
15 own volition, it just flows into the current period;
16 that is, it goes beyond April 30, 1991. And I don't
17 see where anybody's prejudiced by that.

18 MR. SCHONMAN: The Bureau doesn't object
19 if it flows into the current period. The Bureau
20 objects if it -- programs are being broadcast
21 exclusively during the present period and were not
22 broadcast during the license renewal period.

23 MR. LYNCH: That is not the case.

24 JUDGE SIPPEL: I'm taking his
25 representation for purposes of this stage of

1 admissibility -- much questioning on that can be done
2 as is reasonably necessary and appropriate.

3 MR. TILLOTSON: Your Honor -- it's not our
4 burden.

5 JUDGE SIPPEL: I didn't --

6 MR. TILLOTSON: In other words --

7 JUDGE SIPPEL: I understand.

8 Well, this witness has just testified here
9 -- I told you he's here on -- he's under oath for this
10 very purpose.

11 MR. TILLOTSON: But this is his case and
12 he's supposed to tell us these programs ran during
13 these months in this time period. There's a case --
14 the Chicago television case -- where it said, you know,
15 programming that was put on even in the last -- let's
16 say all of these programs started in the last six
17 months to a year before the renewal -- got some
18 problems in Queensbury where he's in a hearing in
19 September of 1990. So let's say all these programs
20 started and the dedicated effort starts in 1990 -- you
21 know -- and it runs into the current period, he didn't
22 give us any of this information. We don't know how
23 many programs, how many minutes, when or how. That was
24 his burden. And, then, we can test it in cross
25 examination against things that we have.

1 If he gets on the witness stand and starts
2 with a moving target and if we try to ask him about it
3 and it turns out he's -- and you say, "Well, here's a
4 log for this month and this year. Is it on there?" He
5 says, "Oh, no, because it began in this year or that
6 was the month it didn't run."

7 In other words, you can't test and
8 challenge someone's claims from all of the documentary
9 evidence he's produced as long as he -- there is a
10 moving target and can -- is free to say -- we've got to
11 ask when it ran. He's not locked into that. We have
12 to ask him what -- you know -- what the times, the
13 durations, how many they were. And then as soon as we
14 can put something in front of him and say it's not on
15 there, he's free to tell us, "Oh, yes, that was the
16 month that didn't run for some other reason."

17 JUDGE SIPPEL: I hear you.

18 Now, let me -- Do you have -- let me ask
19 Mr. Lynch a question. Do you have documents -- actual
20 documents in terms of logs that will substantiate this?

21 MR. LYNCH: No --

22 JUDGE SIPPEL: What kind of documentation
23 do you have that will -- When I say "this," I'm talking
24 about paragraph 16 of Exhibit 6.

25 MR. LYNCH: Basically, after Davidson, my

1 proffer programming, Exhibit 1 and this. I believe
2 every single one of these things is put down as far as
3 a period of time and an approximate hour coverage, Hot
4 Air Balloon Festival -- Job Discovery, all the things
5 I'm talking about, other than, I believe, Vietnam
6 Veterans, which was an eclectic sort of thing. There
7 wasn't any annual push on the whole thing --

8 JUDGE SIPPEL: Well, let me ask the
9 question this way, then: If you go back to this local
10 Exhibit 1 -- but Exhibit 6, that which is in column
11 form, Exhibit 6, pages 13 through 22, is what is in
12 those pages duplicative of what's in paragraph 16 --

13 MR. LYNCH: Virtually in its entirety.
14 There are a couple that I do not -- excuse me --

15 JUDGE SIPPEL: -- "virtually in its
16 entirety" -- the substance of what's in pages 13
17 through 22 is found in paragraph 16. It's just that
18 the form is different?

19 MR. LYNCH: Other than one or two items in
20 it. The Vietnam Veterans --

21 JUDGE SIPPEL: That's not supported in
22 Exhibit --

23 MR. LYNCH: I have no -- I can tell you
24 what we did --

25 JUDGE SIPPEL: Well, I don't want you to

1 tell me now.

2 MR. LYNCH: Yes.

3 JUDGE SIPPEL: -- okay.

4 What I'm going to do -- what I'm going to
5 do is -- so you don't have anything specific to back up
6 --

7 MR. LYNCH: Yes, I'm -- I --

8 JUDGE SIPPEL: Let me finish my sentence.

9 The Vietnam Veteran --

10 MR. LYNCH: But I specifically have
11 Vietnam Veterans of America various times, various days
12 throughout the entire license term, which is accurate.

13 JUDGE SIPPEL: Where do you have that?

14 MR. LYNCH: Exhibit 6, page 17.

15 JUDGE SIPPEL: Oh, so you do have --

16 MR. LYNCH: Well, I have it documented;
17 but, again, it's nothing where I can take every minute
18 --

19 JUDGE SIPPEL: All right.

20 MR. LYNCH: -- and every date of every
21 piece of coverage. Other ones are easier.

22 JUDGE SIPPEL: I don't want to belabor
23 this. I'm going to strike paragraph 16 in its entirety
24 because what you're telling me is you have it in a more
25 specific form on a time basis back on pages 13 through

1 22. And I'm giving -- I'm accepting the argument of
2 Mr. Tillotson that by leaving it in this broad,
3 narrative form it makes it too difficult to get at on
4 the cross examination and it's going to be much more
5 time consuming.

6 So all of paragraph 16 comes out. That
7 starts on page 8 of Exhibit 6 and goes over to page 12
8 of Exhibit 6.

9 Now, that leaves us with what's in the
10 column format on pages 6, 14 to 6, 22.

11 Now, I know what you're -- you know --
12 we've been through this on the voir dire, Mr.
13 Tillotson, but is there any way that we could just
14 leave well enough alone and receive these into evidence
15 -- cross examination?

16 MR. TILLOTSON: There's no problem, Your
17 Honor, except that Mr. Schonman's going to have some
18 objections that he might as well state as to some of
19 them have specific time period problems.

20 JUDGE SIPPEL: All right. Yes. Well, I
21 just want to get --

22 MR. TILLOTSON: I --

23 JUDGE SIPPEL: -- you pinned down first.

24 MR. TILLOTSON: No, but I agree you. I'll
25 even pass to him on the specific time period problems,

1 because I have no problem.

2 JUDGE SIPPEL: All right.

3 Mr. Schonman.

4 MR. SCHONMAN: On -- Bear with me one
5 moment, Your Honor.

6 JUDGE SIPPEL: Off the record.

7 (Off the record).

8 (On the record).

9 MR. SCHONMAN: On Exhibit 6, page 15, at
10 the bottom, it says, "Prospect School Radio Telethon."
11 Under the column description, "Annually, WYLR has
12 supported sister WWSC," etc.

13 It's unclear to me whether we're referring
14 to the FM, the AM or who's doing what with whom.

15 MR. LYNCH: There is a 12-hour radio
16 telethon on the AM side. The FM plugs it during the
17 period of the telethon. It has -- in 1987 ran a four-
18 hour live remote to help raise money. And we do run
19 PSAs -- you know -- leading up to it.

20 JUDGE SIPPEL: When you say, "we," who's
21 the we that's running the PSAs --

22 MR. LYNCH: Well, WYLR specifically runs
23 PSAs to support the WWSC's telethon. You know, WYLR
24 also runs PSAs to support Jerry Lewis' CP Telethon and
25 all.

1 JUDGE SIPPEL: Does that give you anything

2 --

3 MR. SCHONMAN: Well --

4 JUDGE SIPPEL: -- your objection or --

5 MR. SCHONMAN: -- if this -- if this entry
6 regarding Prospect School Radio Telethon indicates
7 specific PSAs that were broadcast over the FM station,
8 then, it's certainly relevant and I would not object to
9 that.

10 JUDGE SIPPEL: Can you respond to that,
11 Mr. Lynch?

12 MR. LYNCH: It does. That's -- we run a
13 two-week, conservatively --

14 JUDGE SIPPEL: All right. That's all
15 right -- Thank you --

16 MR. SCHONMAN: On the next page --

17 JUDGE SIPPEL: Page 16 of Exhibit 6.

18 MR. SCHONMAN: -- in the middle, "Scholar
19 Appreciation Week," under the column, Approximate Hours
20 Per Day," it has, "Unknown number of PSAs." The Bureau
21 would object that that is a vague statement.

22 JUDGE SIPPEL: Where is the vagueness?
23 Which --

24 MR. SCHONMAN: "Unknown Number of PSAs."
25 If the number is unknown, then there's no --

1 JUDGE SIPPEL: How do you explain that --

2 MR. LYNCH: That I don't want to lie to
3 the court. If I sat down with any people who had
4 knowledge of what we did -- what we ended up doing was
5 integrating with a number of people in the community --
6 Students Against Drunk Drivers -- and then I worked a
7 lot myself and we awarded scholars. And our part of
8 the awards were letting people know about it, one.
9 And, two, some of the prizes were bringing students
10 onto the radio --

11 JUDGE SIPPEL: What other evidence do you
12 have to support this? How you going to prove that?

13 MR. LYNCH: It's past in time. There's no
14 proof whatsoever --

15 JUDGE SIPPEL: -- documents?

16 MR. LYNCH: -- other than my sworn
17 statement.

18 JUDGE SIPPEL: Sworn statement of who?

19 MR. LYNCH: Me, the sworn statement of the
20 two people that work for me saying that they reviewed
21 this.

22 Again, if we didn't know how many -- if we
23 couldn't come in and swear that we ran at least this
24 number of PSAs, that's why I put the unknown number.
25 But it was a good push for the radio station.

1 JUDGE SIPPEL: Well, it is -- I share the
2 Bureau's concern about the vagueness of that. That is
3 an extremely vague way to leave a record; but I think
4 you run the risk of leaving a record like that -- I
5 will permit it to come in the record, provided that --
6 provided that -- you offer some corroboration through
7 witnesses other than yourself.

8 MR. LYNCH: Yes, Your Honor.

9 JUDGE SIPPEL: This may be subject to
10 being -- I'm making a note of it in my column here,
11 "May be subject to strike, if no followup -- "

12 All right. Mr. Schonman, that's my
13 ruling.

14 MR. SCHONMAN: Thank you.

15 Same page, the very next entry, "Moscow
16 Music Peace Festival." It indicates 1981, which would
17 certainly be outside of the renewal period. And,
18 furthermore, as I understand it, this came up during
19 one of our pre-hearing conferences. I believe Ms.
20 Laydon (phonetic) objected to Mr. Lynch's proffer of
21 this; so Mr. Lynch had an understanding that this
22 should not be in this.

23 MR. LYNCH: I'd be willing to stipulate
24 that is outside the license period.

25 JUDGE SIPPEL: And it looks like there's a

1 handwritten note to the left of "Moscow Music Peace
2 Festival." Is that your handwriting, Mr. Lynch?

3 MR. LYNCH: "DEL"?

4 JUDGE SIPPEL: Yes.

5 MR. LYNCH: That was a typographical, when
6 I ran this. That's delete.

7 JUDGE SIPPEL: What is that supposed to
8 mean?

9 MR. LYNCH: Delete this.

10 JUDGE SIPPEL: That was supposed to be
11 deleted.

12 MR. LYNCH: Yes, Your Honor.

13 JUDGE SIPPEL: And what do you say --

14 MR. LYNCH: We went through this. We had
15 a number of different things -- clarified the license
16 term. I took a number of different things out of this
17 that I had in before. This one --

18 JUDGE SIPPEL: All right.

19 MR. LYNCH: -- stayed.

20 JUDGE SIPPEL: I'm striking -- on page 16
21 of Exhibit 6 the reference to the Moscow Music Peace
22 Festival all across the page.

23 MR. SCHONMAN: Thank you, Your Honor.

24 Next page, which would be Exhibit 6, page
25 17, the Shamrock Shuffle, March 1990, again for

1 vagueness, unknown number of PSAs. The Bureau would
2 object on vagueness grounds, as well as for vagueness
3 grounds with the Vietnam Veterans License American.
4 There are two references to "various," and that's
5 certainly too broad, too vague.

6 JUDGE SIPPEL: Why can't we -- Well, I'm
7 not going to ask you -- I'm not going to let -- I'll do
8 the same with respect to the Shamrock Shuffle. That's
9 subject to a motion -- a renewed motion to strike.

10 But there's no -- Now, moving down to the
11 Vietnam Veterans of America, there's no way -- I don't
12 see any way that anybody's going to be able to get that
13 beyond "various" -- because -- you do have evidence of
14 beyond "various" you would have put it in.

15 Well, I'm --

16 MR. LYNCH: That's correct. There are a
17 number of things I've done; but --

18 JUDGE SIPPEL: -- give you -- on that. I
19 can't -- I can't allow that to come in the record.
20 Again, it's a -- rule of evidence 403 problem. I'm
21 going to strike that.

22 MR. SCHONMAN: Thank you, Your Honor.

23 Same page, the next entry, "Recovery
24 Radio" is outside the renewal period, September '91.

25 MR. LYNCH: I would stipulate to that.

1 JUDGE SIPPEL: I'm striking page 17 of
2 Exhibit, all the reference to "Recovery Radio,"
3 September '91 to the present.

4 Anything else on that page?

5 MR. SCHONMAN: No -- not on my page.

6 I'm quickly going through the rest of the
7 pages.

8 I have no further objections to this
9 Exhibit.

10 JUDGE SIPPEL: I see that on page 18
11 there's another EBS license -- various tests. This is
12 that reference back earlier to the EBS testing that
13 you're required to do?

14 MR. LYNCH: Yes, Your Honor.

15 MR. TILLOTSON: Your Honor, if I could, on
16 page 19 -- same kind of a problem as the "various."
17 The Winter Weather Emergency Coverage, 1970 to 1992.
18 And the days per week. It says, "As warranted."

19 For all we know, there was not more than -
20 - you know -- there wasn't -- there were none in the
21 particular license term that they actually had to do
22 what they say they would do here. And if they had
23 information, it should have been supplied.

24 JUDGE SIPPEL: I'm going to do the same
25 thing on this. This is going to be subject to a motion

1 to strike.

2 MR. LYNCH: Your Honor --

3 JUDGE SIPPEL: -- after these people --
4 after these witnesses from Normandy are cross examined.

5 Yes.

6 MR. LYNCH: Could I change that -- Well, I
7 can't; but every single major weather emergency we've
8 broadcast since I walked into that station -- both
9 stations -- carte blanche, A to Z, top to bottom.

10 As far as going back and finding out over
11 the license term where every major snowstorm or school
12 closing was, that would be virtually impossible. We've
13 done this from -- pretty much since I've been there.

14 JUDGE SIPPEL: Well, let's see. Let's see
15 what -- let's see how it all -- how the record stands
16 after --

17 MR. LYNCH: All right.

18 JUDGE SIPPEL: -- you've had your
19 opportunity to tell your story completely --

20 That's it on this Exhibit then?

21 MR. SCHONMAN: That's correct, sir.

22 JUDGE SIPPEL: Then, Exhibit 6 -- all 22
23 pages of Exhibit 6, subject to the rulings that I have
24 made, is received in evidence at this time.

25 (The item referred to,

1 having been previously
2 marked for
3 identification as
4 Normandy Exhibit No.
5 6, was received in
6 evidence).

7 JUDGE SIPPEL: Go off the record for just
8 a minute.

9 (Off the record).

10 (On the record).

11 JUDGE SIPPEL: The next item of business
12 is Exhibit 7, a sworn statement of Christopher P.
13 Lynch.

14 Mr. Lynch, this is a four-page document.

15 At this time, I'm having the Reporter mark
16 for identification as Normandy Exhibit 7.

17 (The item referred to
18 was marked for
19 identification as
20 Normandy Exhibit No.
21 7.)

22 JUDGE SIPPEL: Would you explain the
23 purpose of this document, please?

24 MR. LYNCH: Having been asked to set forth
25 whatever mitigating and exculpatory evidence I may or

1 may not have, this goes strictly -- well, either to --
2 either those subjects mitigation or exculpation. It
3 does refer back to Judge Kuhlman's decision; but,
4 again, I just cannot see mitigating some of the things
5 that happened there without referring -- if not
6 peripherally -- you know -- to his decision --

7 JUDGE SIPPEL: Well, what is it that
8 you're --

9 MR. LYNCH: It attempts to explain how I
10 made the errors. Everything in front of this court, as
11 we sit here right now, is a paperwork error.

12 What I'm trying to do is explain it and --
13 as part of my mitigation -- and the other part of the
14 mitigation is that I actually did run a good radio
15 station over this period of time.

16 JUDGE SIPPEL: All right. Well, it's
17 marked for identification. Let's hear from Mr.
18 Tillotson.

19 MR. TILLOTSON: Your Honor, this Exhibit,
20 insofar as it does anything, it clearly attacks the --
21 it tries to reargue the findings under the basic issues
22 in Skidelsky, in which Mr. Lynch was disqualified in
23 that proceeding. And it's -- all it really is is self-
24 serving explanations. And if we got into this, I would
25 have to bring you the entire record in Skidelsky to

1 show you that these were not clerical errors. And,
2 indeed, that's what the judge found. If it had been
3 clerical errors, he wouldn't have disqualified him.

4 JUDGE SIPPEL: Mr. Schonman.

5 MR. SCHONMAN: The Bureau agrees. I think
6 Your Honor has repeatedly said in pre-hearing
7 conferences that we would not relitigate Skidelsky; and
8 that is what Mr. Lynch appears to be trying to do in
9 this Exhibit.

10 JUDGE SIPPEL: All right.

11 MR. LYNCH: Your Honor, again, I am not
12 rearguing. I understand I'm not allowed to do that;
13 but there are a number of new facts that are in these
14 four pages that were not in front of Judge Kuhlman's
15 court. And, again, some of these things, I believe,
16 are strongly mitigating.

17 JUDGE SIPPEL: All right. I've determined
18 that this -- the impact of this and the import of this
19 is to seek to relitigate what was decided in Skidelsky
20 and I ruled that to be totally off limits. My ruling
21 is that I am rejecting Exhibit 7 as an Exhibit in this
22 case.

23 (The item referred to,
24 having been previously
25 marked for